

United States Court of Appeals For the First Circuit

No. 03-2100

UNITED STATES,

Appellee,

v.

ANIBAL PAGAN-CEREZO,

Defendant, Appellant.

Before

Lynch, Lipez and Howard, Circuit Judges.

JUDGMENT

Entered: October 29, 2004

We vacate the drug treatment condition of supervised release because it was not orally announced at sentencing, see United States v. Melendez-Santana, 353 F.3d 93, 100 (1st Cir. 2003), and we amend the drug testing condition of supervised release (which also was not orally announced), to provide for the minimum mandatory three tests, but no more. United States v. Tulloch, 380 F.3d 8, 10 (1st Cir. 2004) ("we hold that a mandatory drug testing condition may be included in the written sentencing judgment without having been mentioned at sentencing"). If the court or probation officer believe that more than three tests are needed or that defendant should undergo substance abuse treatment, then proceedings may be instituted under 18 U.S.C. § 3583(e).

The judgment, as amended, is summarily affirmed.

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FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

By: George L. Fuste Date: 10/29/04

By the Court:

Richard Cushing Donovan, Clerk.

By: MARGARET CARTER
Chief Deputy Clerk.

[Certified Copies: Hon. Jose A. Fuste and Ms. Frances Rios de Moran, Clerk of the United States District Court of Puerto Rico]

[cc: Sonia I. Torres-Pabon, AUSA, German Rieckehoff, AUSA,
Nelson J. Perez-Sosa, AUSA, Craig A. Barton, Esq.,
Anibal Pagan-Cerezo]

97-284 (JAF)

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